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4-16-96
R.P.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of :
HARRY W. DIEHL :
Serial No.: 08/449,066 : Art Unit 1205
Filed: May 24, 1995 : Examiner T. Criares
For: METHOD FOR THE TREATMENT :
OF NON-RHEUMATOID ARTHRITIS :
:

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APR 12 1996

MATRIX CUSTOMER
SERVICE CENTER

The Honorable Commissioner
of Patents and Trademarks
Washington, D.C. 20231

AMENDMENT AFTER FINAL REJECTION

In response to the Official Office Action of January 29, 1996, reconsideration of this application, especially in view of the attached Declaration Under 37 CFR 1.132, is respectfully requested.

The Examiner, Mr. Criares, is thanked for the courteous and helpful interview granted to applicant's undersigned representative on April 4, 1996. At that interview the undersigned presented arguments and further documentation in support of applicant's contention that the use of cetyl myristoleate, as taught in applicant's earlier patents, to treat rheumatoid arthritis would not suggest to one skilled in the art to use the same medication to treat osteoarthritis. In further support of applicant's contention it was pointed out that the expression

"arthritis" covers many disparate diseases which affect body joints and that many, including rheumatoid arthritis and osteoarthritis are distinctly different diseases having different pathologies and requiring different forms of treatment. It was argued that the fact that some few drugs, such as aspirin, may be used to treat both diseases does not suggest that any drug, eg. cetyl myristoleate, would be effective in the treatment of both rheumatoid and osteo arthritis.

At the conclusion of the interview of April 4, 1996, the Examiner agreed that if a Declaration under 37CFR1.132 by a licensed physician could be presented establishing that rheumatoid arthritis and osteoarthritis were distinctly different diseases requiring different forms of therapy, and that the use of a particular medication to treat one disease would not suggest that medication in treatment of the other disease, the Examiner would favorably reconsider his position with regard to patentability of the instantly claimed invention.

The attached Declaration of Dr. James Vorosmarti, a licensed physician with extensive medical practice and credentials, amply supports applicant's contention that the present invention is not suggested by the prior art and is therefore patentable.

Accordingly, it is urged that, upon reconsideration, and in view of the attached declaration and other materials submitted in this case, the Examiner

withdraw his rejection under 35 USC 103 and allow the claims
of this case.

Respectfully submitted,



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April 12, 1996